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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,620	10/11/2001	Egon Brauning	UL 3.0-014	8373
27614	7590	10/10/2003	EXAMINER	
ALLEN N. FRIEDMAN, ESQ. C/O MCCARTER & ENGLISH, LLP FOUR GATEWAY CENTER 100 MULBERRY STREET NEWARK, NJ 07102			HARRIS, STEPHANIE N	
		ART UNIT	PAPER NUMBER	
		3636		
DATE MAILED: 10/10/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/975,620	BRAUNING, EGON	

  

Examiner	Art Unit	
Stephanie N. Harris	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 July 2003.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 24,26-28 and 38 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 15-20,25 and 29-33 is/are rejected.
- 7) Claim(s) 21-23 and 34-37 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 October 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9 . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

Claims 24, 26, 27, 28, and 38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Applicant's argument with respect to the election without traverse of Species 1 in Paper No. 7 is acknowledged. Applicant has suggested that claims 15-23, 25-28, and 30-37 are readable on elected Species I. This is not found persuasive because claim 26 is drawn to Species V: Figure 10.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 15, 16, 18, 19, 20, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Cone (USPN 4598946).

Regarding claim 15, Cone discloses a mounting for a seat as seen in Figure 9. The mounting comprises an annular elastic member (52) having an outer peripheral surface and a passageway extending through the elastic member so as to define an inner peripheral surface as seen in Figure 9 (Col. 2, line 68- Col. 3, line 3). A core element (32) is positioned adjacent to and in contact with the inner peripheral surface of the elastic member (52) as seen in Figures 6, 7, and 9. An outer casing (located by element 28, and integral with element 24) is positioned adjacent to and in contact with the outer peripheral surface of the elastic member as seen in Figure 9.

Regarding claim 16, the core element has an axial through passage as seen in Figure 9. Regarding claim 18, the elastic member is interposed between the core element and the outer casing as seen in Figure 9. Regarding claim 19, a top molding (24) is connected to the outer casing. Regarding claim 20, the outer casing has a bottom cup part in which the elastic member is seated as seen in Figure 9.

Regarding claim 31, the chair comprises a seat (10) with an under frame (12) connected to the seat. A mounting, which includes the annular elastic member, core element, and outer casing, is arranged on the underframe as seen in Figure 9.

Claims 15, 16, 18, 31, 32, and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Ewers (USPN 3837610).

Regarding claim 31, the chair comprises a seat (12) with an under frame (15) connected to the seat. A mounting (30), which includes the annular elastic member, core element, and outer casing, is arranged on the under frame as seen in Figure . The annular elastic member (50) has an outer peripheral surface and forms a passageway extending through the elastic members to define an inner peripheral surface (Col. 4, lines 18-23). The core element (36) is positioned adjacent to and in contact with the inner peripheral surface of the elastic member as seen in Figure 4. The outer casing (34) is positioned adjacent to and in contact with the outer peripheral surface of the elastic member as seen in Figure 2.

Regarding claim 32, the core element (36) has an axial through passage as seen in Figure 4. Regarding claim 33, the under frame includes a central column (26) as seen in Figure 1. The mounting is arranged on the central column as seen in Figure 1.

Claims 15, 16, 17, 18, 19, 25, 29, 31, 32, and 33 are rejected under 35 U.S.C. 102(a) as being anticipated by Cohen (WO 90/14031).

Regarding claim 15, Cohen discloses a mounting for a seat as seen in Figure 9. The mounting comprises an annular elastic member (18) having an outer peripheral surface and a passageway extending through the elastic member so as to define an inner peripheral surface as seen in Figure 7 (page 4, lines 4-11). A core element (17) is positioned adjacent to and in contact with the

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inner peripheral surface of the elastic member (18) as seen in Figure 7. An outer casing (30) is positioned adjacent to and in contact with the outer peripheral surface of the elastic member as seen in Figure 7.

Regarding claim 16, the core element has an axial through passage as seen in Figure 7. Regarding claims 17 and 25, the axial through passage of the core element is tapered as seen in Figure 7. Regarding claim 18, the elastic member is interposed between the core element and the outer casing as seen in Figure 7. Regarding claim 19, a top molding (22) is connected to the outer casing. Regarding claim 29, the elastic member is tapered as seen in Figure 7.

Regarding claim 31, the chair comprises a seat (1) with an under frame (2) connected to the seat. A mounting, which includes the annular elastic member, core element, and outer casing, is arranged on the under frame as seen in Figure 7.

Regarding claim 33, the under frame includes a central column (5) as seen in Figure 7. The mounting is arranged on the central column as seen in Figure 7.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cone (USPN 4598946).

Cone has been described above. Cone shows all of the teachings of the claimed invention but fails to show the use of a core element that is made of metal.

Regarding claim 30, Cone discloses that the elastic member is made of rubber ( Col. 2, lines 37-40; Col. 2, line 68- Col. 3, line 3).

It would have been obvious to one having skill in the art at the time the invention was made to a core element made of metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

In re Leshin, 125 USPQ416.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ewers (USPN 3837610)

Ewers has been described above. Ewers shows all of the teachings of the claimed invention but fails to show the use of a core element that is made of metal.

Regarding claim 30, Ewers discloses that the elastic member is made of rubber ( Col. 4, lines 18-23).

It would have been obvious to one having skill in the art at the time the invention was made to a core element made of metal, since it has been held to

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be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

In re Leshin, 125 USPQ416.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen (WO 90/14031)

Cohen has been described above. Cohen shows all of the teachings of the claimed invention but fails to show the use of a core element that is made of metal.

Regarding claim 30, Cohen discloses that the elastic member is made of rubber (Page 8).

It would have been obvious to one having skill in the art at the time the invention was made to a core element made of metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

In re Leshin, 125 USPQ416.

#### ***Allowable Subject Matter***

Claims 21-23 and 34-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments, filed July 7, 2003, with respect to the rejection(s) of claim(s) 15, 16, 17, 18, 25, 29, 30, 31, 32, 33, 34, 35, 37 and 36 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection has been made.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to seat mountings: US Pat. No. 4050844 to Miller et al., US Pat. No. 2855232 to Kozak, US006299247B1 to Meeker et al., US005599064A to Vanderminder, Sr., US005590930A to Glockl, US006481795B1 to Pettibon, US006106064A to Hibberd, US006003944A to Glockyl, US005524967A to Glockyl, US006591461B2 to Salentine et al., and US005577854A to Jacob et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The

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fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

October 6, 2003



ANTHONY D. BARFIELD  
PRIMARY EXAMINER